

REMARKS

The Official Action of July 13, 2006, and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 9-15 and 17, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

Claims 16 and 18 have been cancelled. Claims 9-15 and 17 remain in the application for consideration.

Applicant has cancelled claims 16 and 18 in response to the Examiner's 35 U.S.C. §112, first paragraph rejection of these claims. Applicant respectfully submits that this rejection has now been overcome.

The Examiner has further rejected claims 9-15 under 35 U.S.C. §103(a) as being unpatentable over Penn '976 and claims 13 and 17 under 35 U.S.C. §103(a) as being unpatentable over Penn in view of Heitzmann '912. Applicant respectfully traverses both of these rejections as applied to the claims as amended.

Penn's device of Fig. 7 has a modular arrangement showing a probe head 36 with a probe coil 20 being connected via a wire with an electronic case 42 being mounted through a hole 52 drilled in a patient's skull. A catheter body 48 with sensor 16 is attached to the electronics case 42. Probe head

36 constitutes a proximal assembly of Penn's figure 7 device. The proximal assembly is only covered by the patient's scalp, as is shown in Fig. 7. No semi-flexible cover of the proximal assembly of Penn's Fig. 7 as stipulated in claims 9 and 17 is present. Thus, Penn's Fig. 7 device fails to show or teach this feature of claims 9 and 17 of the application.

The embodiments of Figs. 3-6 of Penn show a device for measuring brain parameters having a sensor unit 16, 48 being connected to an integral electronics case 42 housing an electronic unit. The electronics case 42 may be formed having a screw around its periphery. In this case, electronics case 42 is threaded into a matching thread of the hole 52 inside the patient's skull. In still another embodiment, the hole 52 inside the patient's skull is widened at its outside such that a probe head 36 surrounding the electronics case 42 has a thread at its outer periphery for fastening the device with the electronics 42 being in alignment with the hole 52 inside the patient's skull. In these embodiments according to Figs. 3-6, the electronics unit is an integral part of the whole device. In these embodiments, the sensor unit on the one hand and the electronics unit on the other are not spaced apart as claimed.

The connection shown in Fig. 11 of Penn is not connected between the sensor unit and the electronics unit of

the device but between the device and an external device 14 being not part of the device stipulated in the claimed invention. Penn teaches communication between the implanted device and the external device via the probe coil 20, i.e. in a wireless manner. Therefore, the communication link between the implanted device and the external device gives no hint as to a connection via a micro plug.

The top portion of the housing 46 of Penn's embodiments of Figs. 3-6 is a rigid part of the electronics case 42. This top portion only covers the electronics case but not the whole proximal assembly of Penn's embodiments according to Figs. 3-6. For example, the probe head 36 including the probe coil 20 is not covered via the top portion of the housing 46. The top of the electronics casing 42 of Penn's embodiments of Figs. 3-6 in addition does not cover a micro plug as is stipulated in claims 9 and 17 of the claimed invention.

The semi-flexible cover of the proximal assembly according to claims 9 and 17 of the claimed invention is provided for implantation as is stated in the specification. The semi-flexible cover helps to avoid irritations and protects the units of the device. The electronic unit being not integrated but spaced apart from the sensor unit together with the micro plug connecting the electronics unit with the

sensor unit is disposed underneath the semi-flexible cover and therefore is re-sterilized and thus reusable after disassembly and decoupling of the sensor unit, i.e. the catheter, as is stated in the specification.

Having an integral device like the embodiment of Figs. 3-6 of Penn, i.e. no separate electronics unit, there is a need to drill a hole with a large diameter into the patient's skull as is shown in Figs. 3-6 of Penn. Such a large hole is avoided using a device with spaced apart units, as can be seen via a comparison of Penn's embodiments of Figs. 3-6 with the embodiment of Fig. 7. However, Penn fails to show a semi-flexible cover in the case of Fig. 7 embodiment covering the separate units.

Heitzmann teaches a medical device having a drainage lumen. Heitzmann gives no hint as to a semi-flexible cover for a proximal assembly comprising an electronics unit and a micro plug as stipulated in claims 9 and 17 of the claimed invention.

Applicant respectfully submits that independent claims 9 and 17 clearly patentably define over the cited prior art on the structural differences identified above.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently

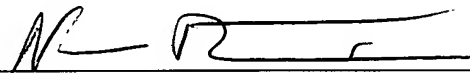
Application No. 10/526,071  
Amendment AF dated October 13, 2006  
Reply to final Office Action of July 13, 2006

pertinent to warrant their applications against any of  
applicant's claims.

Favorable reconsideration and allowance are  
earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By   
Norman J. Latker  
Registration No. 19,963

NJL:ma  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
g:\bn\r\rau\stendell\pto\2006-10-13 Amend-AF